

which the developmentally disabled person lacks the capacity to consent, by one or more parties. Any form of sexual contact or activity between a licensee or service provider and an individual with a developmental disability, absent marriage, domestic partnership, or civil union, is sexual abuse, regardless of whether the individual with a developmental disability gives consent or the service provider is on or off duty.

“Skill development program” means care and training conducted in accordance with a service plan and overseen by the case manager, provided in a private home or apartment to developmentally disabled persons by an adult person or family under contract with the Department as a community care residence.

“Substantial non-compliance” means that a licensee’s failure to meet licensing requirements directly endangers the health, safety, or welfare of an individual or individuals, when the unmet requirements exist in significant number; when the degree of the condition(s) is severe; when one or more requirements have been left unmet with great frequency; and/or when the terms of the license have been violated.

“Special Response Unit” or “SRU” means that component of the Department responsible for investigating allegations of serious abuse, neglect, and exploitation, as well as alleged violations of Danielle’s Law in community programs licensed and/or regulated by the Department or contracted by the Division.

“Terms of the license” means the capacity of the licensed venue, the named licensee(s), the Vendor Identification Number (VID #), the licensee’s address, and the dates during which the license is effective.

“Traumatic brain injury” means an acquired injury to the brain, but does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to trauma.

“Uniform Construction Code” refers to the statutory provisions contained in N.J.S.A. 52:27D-119 et seq. and its regulatory scheme contained in N.J.A.C. 5:23.

“Unusual incident” means an occurrence involving the care, supervision, or actions of an individual that is adverse in nature or has the potential to have an adverse impact on the health, safety, and the welfare of the individual or others. Unusual incidents shall include, but are not limited to: abuse, neglect, assault, contraband, criminal activity, Danielle’s Law violations, death, exploitation, injury, medical incidents, unauthorized restraint use, violation of rights, sexual assault or contact, suicide attempt, elopement (criminal or non-criminal status), and operational breakdown.

“Variance” means recognition that the licensee has complied with the intent of a standard in a Department-

approved alternative manner, which is requested in writing by the licensee and granted in writing by the licensing agency.

“Verbal abuse, psychological abuse, or mistreatment” means any verbal or non-verbal acts, conditions, or omission of acts or conditions that may have or have had a negative impact on an individual and/or may inflict or have inflicted emotional harm, mental distress, fear, and/or humiliation, intimidation, degradation, or is demeaning to a person with a developmental disability. The latter types of abuse or mistreatment include, but are not limited to: teasing, cursing, yelling, name-calling, bullying, and utterances of racial slurs, threats, intimidating gestures, and verbal assault.

“Waiver” means the temporary suspension of a standard, which is requested in writing by the licensee and is granted in writing by the licensing agency.

“Willful non-compliance” exists when the applicant or licensee has knowledge of conditions that are in violation of licensing rules and/or terms of the license, has been advised of the consequences of not achieving compliance, and has not achieved compliance after being given an adequate opportunity to do so.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Recodified from N.J.A.C. 10:44B-1.1.

Revised and added definitions throughout section.

Amended by R.2004 d.404, effective November 1, 2004.

See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

In “Individual”, added “or the Department” at the end; rewrote “Licensing agency”; in “Variance” substituted “Department-approved” for “Division-approved”.

Amended by R.2013 d.062, effective April 15, 2013.

See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

Rewrote definitions “Abuse”, “Advocate”, “Case manager”, “Community care residence”, “Community residence for the developmentally disabled”, “Community Services”, “Developmental disability”, “Exploitation”, “Individual”, “License”, “Licensee”, “Licensing agency”, “Negative licensing sanction”, “Neglect”, “Pattern of non-compliance”, “Personal guidance”, “Skill development program”, “Substantial non-compliance”, “Variance”, “Waiver” and “Willful non-compliance”; deleted definitions “Autism”, “Cerebral Palsy”, “Epilepsy”, “Family care program”, “Immediate family”, “Interdisciplinary team”, “Individual Habilitation Plan”, “Natural person” and “Private placement”; and added definitions “Alternate”, “Applicant”, “Barrier-free design”, “Census”, “Central Registry”, “Close”, “Confidentiality”, “Danielle’s Law”, “Day activities”, “Development agency”, “Division”, “Domicile”, “Falsification”, “Family”, “Firearm”, “Goal”, “Guardian”, “Habilitation”, “Interdisciplinary team”, “Medication”, “Non-compliance”, “Occupant”, “Person”, “Physical abuse”, “Placing agency”, “Plan of correction”, “Plan coordinator”, “Service plan”, “Sexual abuse”, “Special Response Unit” or “SRU”, “Terms of the license”, “Traumatic brain injury”, “Uniform Construction Code”, “Unusual incident” and “Verbal abuse, psychological abuse, or mistreatment”.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 386) adopted, which found that, although licensed adult care provider was not directly responsible for burns suffered by a resident under her care, the provider had ample reason to be alerted to possible injury, but did not see fit to examine the resident, resulting in a failure to timely treat the burns; the provider’s conduct was such that she failed to provide and maintain proper and sufficient health care, and/or adult supervision for her residents and her license to operate a Community Care Residence was properly revoked.

Dep't of Human Services v. White-Bryant, OAL Dkt. No. HSL 04241-07, 2008 N.J. AGEN LEXIS 1242, Final Decision (July 15, 2008).

Revocation of respondent's license to operate a Community Care Residence on grounds of respondent's abuse of resident was warranted where respondent was not acting in self-defense and the respondent's back-handed face-slap was an inappropriate response to the resident's action of pushing. Div. of Developmental Disabilities v. Minnix, OAL Dkt. No. HDD 10343-04, 2007 N.J. AGEN LEXIS 925, Final Decision (January 8, 2008).

In addition to the misuse of extension cords, Community Care Residence licensee's failure to notify the Division of Developmental Disabilities that she was caring for persons in her home other than DDD clients further put the DDD clients at risk; the licensee attempted to additionally run a day care center in the home, adding further people to her charge, when her DDD license only provided for 3 DDD clients in the home, and the licensee failed to advise the DDD inspector in March 2004 or earlier that she had registered with the Division of Youth and Family Services as a family day care provider. Div. of Developmental Disabilities v. Cruz, OAL Dkt. No. HDD 777-2005S, 2007 N.J. AGEN LEXIS 524, Final Decision (June 22, 2007).

Initial Decision (2006 N.J. AGEN LEXIS 345) adopted, which concluded that revocation of Community Care Residence license was proper where credible evidence showed that the licensee had taped shut the mouth of a resident, a developmentally disabled man who was hydrocephalic and had an enlarged head; given that the resident had a cold, the tape could have impaired his ability to breathe, and removing the tape could have caused damage to his lips or the skin around his mouth. Div. of Developmental Disabilities v. Howell, OAL Dkt. No. HDD 4074-05, 2006 N.J. AGEN LEXIS 390, Final Decision (June 7, 2006).

10:44B-1.4 Application for community care licensure

(a) All initial inquiries for a license to operate a community care residence shall be made to the appropriate regional office of the Division or development agency. Current regional offices addresses and telephone numbers may be found by visiting the Department's website at www.state.nj.us/humanservices. Regional offices cover the following counties:

Regional Office:	Counties of Jurisdiction:
Northern Regional Office	Sussex, Morris, Warren, Passaic, Bergen, Hudson
Upper Central Regional Office	Essex, Somerset, Union
Lower Central Regional Office	Middlesex, Monmouth, Mercer, Ocean, Hunterdon
Southern Regional Office	Camden, Atlantic, Gloucester, Cumberland, Salem, Cape May, Burlington

(b) Only persons who have a domicile in the State of New Jersey are eligible to apply for licensure as a community care residence. The residence proposed for licensure shall be the applicant's primary domicile.

(c) All applicants shall complete an initial application, which shall include the applicant's original signature and date.

1. The applicant shall provide a current official photo identification, such as a valid driver's license, employment

identification, motor vehicle identification card, passport, or any other form of official documentation.

2. If the applicant is not a citizen of the United States, he or she shall provide an alien registration card or United States Citizenship and Immigration Service documentation as evidence of legal residency and approval to work in the United States.

(d) The applicant shall provide the Division's or development agency's approved medical examination form, current within one year, which has been completed and signed by the applicant's physician or nurse practitioner confirming that the applicant is physically, mentally, and emotionally capable of providing care to individuals.

1. The applicant may be required to demonstrate to the development or placing agency, his or her ability to provide any physical assistance that may be required by individuals.

(e) The applicant and all occupants of the household 18 years of age or older shall participate in the interview process.

(f) The regional office or development agency representative shall conduct a visit to the home during the application process (Home Study) to ascertain that it meets licensure requirements. The regional office or development agency shall make recommendations regarding the capacity of the home during the application process.

1. The applicant shall provide a copy of a certificate of occupancy, if required by local ordinances, during the application process.

(g) The applicant and all occupants of the household who are 18 years of age or older shall be fingerprinted through the appropriate regional office or development agency.

(h) Except as otherwise provided in the Rehabilitated Offenders Act, N.J.S.A. 2A:168A-1 et seq., no license shall be issued to any person when that person, or any occupant of the household 18 years of age or older, at any time has been convicted of any of the following offenses:

1. Crimes against a person or persons, including, but not limited to:

- i. Murder;
- ii. Manslaughter;
- iii. Death by auto;
- iv. Simple assault;
- v. Aggravated assault;
- vi. Recklessly endangering another person;
- vii. Terroristic threats;
- viii. Kidnapping;
- ix. Interference with custody of children;

- x. Sexual assault;
- xi. Criminal sexual contact;
- xii. Lewdness; or
- xiii. Robbery;

2. Any crime against children or incompetents as set forth in N.J.S.A. 2C:24-1 et seq., including, but not limited to:

- i. Endangering the welfare of a child; or
- ii. Endangering the welfare of an incompetent person;

3. A crime or offense involving the manufacture, transportation, sale, possession, or habitual use of a controlled dangerous substance, as defined in N.J.S.A. 24:21-1 et seq.;

4. Financial crimes, such as fraud, theft, bribery, embezzlement, forgery, counterfeiting, identity theft, or burglary;

5. Conduct committed in any other state or jurisdiction, which, if committed in New Jersey, would constitute any of the crimes described in (h)1, 2, or 3 above; or

6. Any other civil or criminal action similar to (h)1 through 5 above.

(i) Upon submission by the person or occupant of the nature and seriousness of the crime; the circumstances under which the crime occurred; the date of the crime; the age of the person when the crime was committed; whether the crime was an isolated or repeated incident; the social conditions that may have contributed to the crime; any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in a correctional work-release program, or the recommendation of persons who have or have had the applicant under their supervision; and/or evidence of a pardon or of the expungement of a criminal conviction, pursuant to N.J.S.A. 2A:164-28, or of a certificate of the Federal or State parole board, or of the Chief Probation Officer of a United States District Court or of a county who has supervised the occupant's probation, that the occupant has achieved a degree of rehabilitation such that their licensure would not be incompatible with the welfare of individuals, the Department may issue a license to a person with a criminal record, or may allow a person to operate a community care residence with occupants with a criminal record.

(j) No license shall be issued when the name of the applicant or the name of any occupant of the applicant's home appear on the Central Registry.

(k) The applicant shall, at a minimum, provide three professional/personal references.

(l) Applicants shall attend and successfully complete a training and orientation program conducted and/or approved by the Division.

1. The orientation and training program, and any subsequent modifications, shall be jointly reviewed and approved by the Division and the licensing agency.

2. The orientation and training program conducted by any development agency other than the Division shall be re-evaluated every two years by the Division.

(m) The applicant shall read, write, speak, and understand English in a manner sufficient to provide care, support, and supervision to individuals, and to comply with licensing standards.

(n) Falsification of any information during the application process shall be sufficient cause to terminate the application.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Recodified from N.J.A.C. 10:44B-1.2.

Revised designations for "Metropolitan Regional" and "Central Regional" offices to "Upper Central Regional" and "Lower Central Regional" offices.

Amended by R.2013 d.062, effective April 15, 2013.

See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

Rewrote the section.

10:44B-1.5 Licenses and inspection

(a) Upon receipt of, and approval by, the licensing agency of the application package, which demonstrates compliance with N.J.A.C. 10:44B-1.4(c) through (l), an initial inspection shall be arranged by the licensing agency.

1. The applicant or licensee shall be interviewed by the licensing agency during the inspection to ascertain his or her understanding of the duties of a licensed provider.

2. The physical conditions of the home shall be subject to inspection and full access to all areas of the home and property shall be granted by the applicant or licensee to the licensing representative.

(b) An initial provisional license shall be issued if the applicant has demonstrated that he or she has sufficient knowledge of the duties required of a licensed provider and if the inspection provides reasonable assurance that the home will be operated in the manner required by the standards.

1. The initial provisional license shall permit a licensee to operate for a six-month period in which he or she shall demonstrate his or her ability to comply with the applicable provisions of this chapter.

2. The initial capacity of the home shall not exceed two individuals.

3. No individual shall be placed in any residence before an initial inspection is conducted and the residence is approved for licensure.

(c) The residence shall be subject to inspection by the licensing agency at least annually, and at any other time as deemed necessary, without prior notice and without limitation, to allow for inquiry into the records, equipment, safety, sanitary conditions, accommodations, and management of the individuals and the residence.

(d) After each inspection, the licensee shall be provided with a copy of the inspection report. At the discretion of the licensing agency, it shall be the obligation of the licensee to provide a plan of correction.

1. Unless a plan for earlier correction is required, the plan of correction shall be provided within 30 days of the issuance of the report.

2. The licensing agency may conduct unannounced inspections to verify that deficiencies of a significant nature have been corrected.

3. Correction of all deficiencies shall be verified at the time of the next inspection.

4. Failure to make such corrections or failure to submit the plan of correction within the required time frame shall be considered grounds for action against the licensee.

(e) The license shall be issued by the Department only to a person or persons and is not transferable to any other person or address. All licenses remain the property of the Department and shall be returned upon termination.

(f) The license shall be kept on the premises at all times and shall be made available upon request.

(g) The license shall specify the total bed capacity of the home, excluding family members. The licensee shall at no time exceed the licensed bed capacity of the residence.

(h) The community care residence shall be the licensee's primary domicile.

(i) No licensee shall operate more than one community care residence.

(j) Waivers or variances of specific standards may be granted at the discretion of the Department, provided that:

1. Strict enforcement of the rule would result in unreasonable hardship on the residence;

2. The waiver or variance is not simply for the convenience of the licensee or other occupants of the home;

3. The waiver or variance is in accordance with the particular needs of an individual(s);

i. The waiver or variance does not adversely affect the health, safety, welfare, or rights of any individual.

ii. Verification that the waiver or variance comports with the individual needs of the person(s) residing in the

residence may be requested from the case manager by the licensing agency; and

4. The waiver is requested in writing by the licensee complete with substantial detail justifying the request.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Recodified from N.J.A.C. 10:44B-1.3.

Stylistic changes throughout.

In (c): added "maximum" to six-month period.

In (f): deleted language setting license fee.

Amended by R.2004 d.404, effective November 1, 2004.

See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

In (a), amended the address; in (l) and (m), substituted "Department" for "Division of Developmental Disabilities".

Amended by R.2013 d.062, effective April 15, 2013.

See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

Rewrote the section.

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 34) accepted, which concluded that revocation of license to operate a Community Care Residence (CCR) on grounds of failure to allow access to the residence was warranted where substantial evidence showed that the licensee exhibited a pattern of failing to cooperate with the Division of Developmental Disabilities staff as concerned the required CCR monthly home visits. In 2002 only five monthly home visits were conducted and in 2003 only four visits were conducted despite the DDD staff's attempts every month to arrange for the visits, and the licensee did not return telephone calls, cancelled appointments, or was not home for scheduled appointments. *Thomas v. Div. of Developmental Disabilities*, OAL Dkt. No. HDD 4537-04 and HDD 8641-04 (Consolidated), 2007 N.J. AGEN LEXIS 105, Final Decision (February 28, 2007).

Revocation of Community Care Residence (CCR) license was proper as licensee's deprivation of access to the refrigerator by his developmentally disabled residents, ostensibly in an effort to modify one resident's weight problem and his behavior of raiding the refrigerator, was a deprivation of their rights as well as abuse, notwithstanding that there was no rule specifically prohibiting a lock on a refrigerator; the residents were entitled to broadly exercise their individual rights, which were not to be curtailed based on their diagnoses, nor without due process, and no house rule could infringe on those rights since the residents were specifically entitled to free access to all living areas of the home, including the kitchen and the shared refrigerator. *Solomon v. Div. of Developmental Disabilities*, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950, Final Decision (September 13, 2006).

10:44B-1.6 Options on non-compliance with standard

(a) The Department may revoke a license whenever the licensee shall be found to be violating any State or Federal law pertaining to community care residences, or whenever such residence shall fail to comply with the minimum standards established by the Department. The Department may suspend the license, pending the outcome of an inspection, investigation, or inquiry by the Department, when an allegation is received that may affect the health, safety, and/or welfare of an individual(s).

(b) If any inspection, investigation, or inquiry by the Department reveals substantial non-compliance or willful non-compliance with the rules contained in this chapter, or if any non-compliance represents a threat to the health, safety, or rights of the individuals or boarders, licensure may be

denied or revoked, following 30-day notice to the provider of such intent. Any subsequent application may be denied.

(c) In cases of non-compliance where licensure denial or revocation may be deemed by the Department to be too harsh an action, intermediate sanctions may be invoked following 30-day notice to the licensee of such intent. These include removal of individuals from the residence, imposition of a suspension of admissions to the home, reduction of capacity, or licensure term of the residence.

(d) Falsification of any information contained in the application or provided during any inspection, investigation, or inquiry shall be sufficient grounds for licensure denial, suspension, revocation, or non-renewal.

(e) Failure of an applicant or licensee to cooperate and/or provide necessary information in connection with an inspection, investigation, or inquiry by representatives of the Department shall be considered sufficient grounds for licensure denial, suspension, revocation, or non-renewal.

(f) Any licensee whose license has been suspended, revoked, or non-renewed, or who has had any intermediate sanctions invoked against him or her, has the right to appeal such negative licensing action pursuant to N.J.A.C. 10:48.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Recodified from N.J.A.C. 10:44B-1.4.

Stylistic changes.

Amended by R.2004 d.404, effective November 1, 2004.

See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

In (c), substituted "Department" for "Division of Developmental Disabilities".

Amended by R.2013 d.062, effective April 15, 2013.

See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

Rewrote the section.

SUBCHAPTER 2. MANAGEMENT OF THE RESIDENCE

10:44B-2.1 Licensee requirements

(a) The licensee shall have overall responsibility for the individuals and boarders in the residence.

1. Except as otherwise provided in the Rehabilitated Offenders Act, N.J.S.A. 2A:168A-1 et seq., no license will be issued to any person in whose home or community care residence there is found to be any occupant who has been convicted of any offenses listed at N.J.A.C. 10:44B-1.4(h)1 through 5.

2. The licensee shall read, write, speak, and understand English in a manner sufficient to provide care, support, and supervision to individuals, and to comply with the licensing requirements.

3. The licensee and members of the licensee's family participating in individual care shall be of sound physical and emotional health.

i. Annually, the licensee shall have his or her physician or nurse practitioner complete, sign, and date the Division's or development agency's required medical form, attesting that the licensee is capable of performing his or her duties and is able to provide care to the individuals placed in the residence. The form shall also identify any physical, emotional, or mental limitations of the licensee. The Department, at its discretion, may require additional physical, and/or psychological examinations of the licensee to be provided by the licensee should any evidence of physical, emotional, or mental limitations of the licensee occur between annual attestations.

ii. The Department may require the licensee to demonstrate the ability to provide any physical assistance that may be required by an individual who is placed in the licensee's residence.

(b) The licensee shall assure that any occupant of the household 18 years of age or older, residing in the home or visiting in the home for a period of 30 days or longer, is fingerprinted through the Division or development agency. At the discretion of the placing, development, or licensing agency, fingerprinting of other persons regularly visiting the home may be required.

(c) No license shall be issued for a community care residence in which the licensee or any occupant has been adjudged civilly or criminally liable for abuse, neglect, or exploitation of another person, or whose name appears on the Central Registry.

(d) The licensee shall not enter into a contract with another person or entity to provide supervision, care, or habilitation of individuals for which the licensee has contracted and is receiving payment from the placing agency, unless such contract is specifically approved in writing by the placing and/or development agency and the need for these services is clearly identified in the service plan.

(e) The licensee shall not deny access to any part of a community care residence to any person(s) with proper identification and statutory authority to protect the rights of, and advocate on behalf of, the individuals placed in the residence. Such persons include, but are not limited to, the case manager, legal guardian, guardianship worker, representatives of the licensing agency, the Department, the Division, the placing agency, the developing agency, and the Special Response Unit.

(f) The licensee shall be required to successfully complete all courses of instruction that are required or deemed necessary by the placing and/or licensing agency.

(g) Any licensee who receives or applies for public assistance shall document in writing to the licensing agency that he or she has notified the county welfare agency or board of social services that they are a licensed community care

provider with the Department and the allowable rates for reimbursement as a community care provider.

(h) No licensee shall serve as an alternate while his or her license is suspended or revoked.

(i) Physical abuse; verbal abuse, psychological abuse, or mistreatment; sexual abuse; neglect; exploitation; corporal punishment; physical discipline; violation of the rights, isolation, or the use of unapproved aversive stimuli; or mechanical or physical restraint shall be prohibited.

1. Substantiation of such mistreatment of any individual by the licensee shall be sufficient cause for immediate licensure revocation.

2. The licensee shall not direct or allow individuals to discipline, assist in fire drill evacuation, train, supervise, or in any way care for other individuals, occupants, family members, children, or others requiring care.

(j) No licensee, or his or her relative, or any household member shall be the legal guardian, representative payee, or beneficiary of an insurance policy for, or reap financial or personal gain from, any individual receiving services.

(k) The licensee's work activities, interests, and/or volunteer work shall not interfere with the individuals' care and habilitation.

(l) The licensee shall participate as a member of the IDT in annual service plan meetings of the individuals residing in his or her home.

(m) The licensee shall not accept any remuneration from the individual's family for services rendered.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Added (d)2i-iv and (e); recodified (e)-(k) as (f)-(l), added (f)3iii and (h)4; and in (i), inserted "unapproved" to describe mechanical restraints or isolation.

Amended by R.2013 d.062, effective April 15, 2013.

See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

Rewrote the section.

Case Notes

Revocation of respondent's license to operate a Community Care Residence on grounds of respondent's abuse of resident was warranted where respondent was not acting in self-defense and the respondent's back-handed face-slap was an inappropriate response to the resident's action of pushing. *Div. of Developmental Disabilities v. Minnix*, OAL Dkt. No. HDD 10343-04, 2007 N.J. AGEN LEXIS 925, Final Decision (January 8, 2008).

Revocation of license to operate a Community Care Residence on grounds of the licensee's creation of a hazardous condition in violation of N.J.A.C. 10:44B-6.1 by the overuse of extension cords which resulted in one client's death in an ensuing fire, was warranted since the licensee had an obligation to maintain her home free from hazards to the health, safety, and welfare of the individuals placed in her care, which included the responsibility to ensure that extension cords were not being used improperly in the house in accordance with N.J.A.C. 10:44B-6.3(g)(1); the licensee's improper use of an extension cord at the fire location, which was consistent with the gross misuse of extension cords throughout the house, created an unsafe living environment amounting

to "neglect." *Div. of Developmental Disabilities v. Cruz*, OAL Dkt. No. HDD 777-2005S, 2007 N.J. AGEN LEXIS 524, Final Decision (June 22, 2007).

Developmental Disabilities Licensing failed to carry its burden of persuasion of proof by a preponderance of the competent and credible evidence regarding the allegation that a Community Care Residence licensee had abused a resident where the evidence showed that the resident suffered an injury to his ear sometime after he left an adult activity center and prior to his return there the next morning, during which time the resident rode the bus to the licensee's home, remained there overnight, walked to the bus stop, and rode the bus back to the center, and the licensee adamantly denied that she injured the resident. *Div. of Developmental Disabilities v. Hagans*, OAL Dkt. No. HDD 2675-05, 2007 N.J. AGEN LEXIS 184, Initial Decision (April 10, 2007).

Revocation of Community Care Residence license was proper as licensee's deprivation of access to the refrigerator by his developmentally disabled residents, ostensibly in an effort to modify one resident's weight problem and his behavior of raiding the refrigerator, was a deprivation of their rights as well as abuse, notwithstanding that there was no rule specifically prohibiting a lock on a refrigerator; the residents were entitled to broadly exercise their individual rights, which were not to be curtailed based on their diagnoses, nor without due process, and no house rule could infringe on those rights since the residents were specifically entitled to free access to all living areas of the home, including the kitchen and the shared refrigerator. *Solomon v. Div. of Developmental Disabilities*, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950, Final Decision (September 13, 2006).

Adopting Initial Decision's conclusion that revocation of Community Care Residence license for leaving residents unsupervised by licensed personnel was proper where evidence was uncontroverted that the licensee did not notify the Division of Development Disabilities of his need to attend a funeral in Baltimore and instead of calling in his designated alternate, he simply utilized his unlicensed father for several days (adopting in part, and rejecting in part 2006 N.J. AGEN LEXIS 179). *Solomon v. Div. of Developmental Disabilities*, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950, Final Decision (September 13, 2006).

Suspension of mother and daughter's Community Care Residence license was proper after an agency investigation substantiated that three Division of Developmental Disabilities clients were neglected since (1) the licensee used an unapproved alternate—the daughter's boyfriend—to supervise the clients while the daughter left the residence and the mother went to visit some real estate she owned and (2) two of the clients who were to be provided with no unsupervised time were left without supervision when they were allowed to walk unescorted to the bus taking them to a day care center program. *Shanks v. Div. of Developmental Disabilities*, OAL Dkt. No. HDD 06588-04, 2006 N.J. AGEN LEXIS 333, Initial Decision (April 20, 2006).

Handicapped individual was unable to satisfy licensing requirements to operate community care residence. *Doerr v. Department of Human Services*, 96 N.J.A.R.2d (DDD) 17.

10:44B-2.2 Placements and departures

(a) There shall be no more than five persons in the residence requiring care and assistance, including, but not limited to, family members, children (biological, adopted, or foster), individuals, and boarders.

(b) No more than four individuals shall be placed in any one residence.

(c) The licensee shall assure that they do not accept any placement or allow any occupant into the home whose

presence may negatively impact the health, safety, welfare, or rights of the individuals receiving services.

(d) For all boarders there shall be a written agreement signed by the assigned regional administrator of community services and the director of the placing agency serving the boarder, a copy of which shall be maintained at the residence.

(e) The licensee shall accept only individuals for whom he or she can provide adequate care.

1. If an individual's physical, emotional, mental, or spiritual needs cannot be met, he or she shall not be maintained in the residence after consultation between the licensee and the placing agency representative.

2. Individuals requiring nursing care shall not be maintained in the residence unless the following requirements are met:

i. All licensees shall have a valid LPN or RN license; and

ii. All alternates shall have a valid LPN or RN license.

(f) The licensee shall notify the placing agency in writing, 30 days prior, of any intention to have an individual depart from the residence.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Added text to (c) regarding bedrooms.

Revised subsection (e), and added (f)2i.-ii.

Added new subsection (h).

Amended by R.2004 d.404, effective November 1, 2004.

See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

In (b), substituted "Department" for "Division of Developmental Disabilities" following "The"; in (c) and (e), substituted "licensing agency" for "Office of Licensing and Inspections" at the end.

Amended by R.2013 d.062, effective April 15, 2013.

See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

Rewrote the section.

10:44B-2.3 Alternates

(a) The licensee shall identify an alternate, or alternates, 18 years of age or older to assume the licensee's responsibilities when the licensee is absent.

1. The licensee shall provide the name, address, and telephone number of all alternates to the placing agency, development agency, and the licensing agency.

i. Whenever the licensee changes, adds, or removes an alternate, the placing, development, and licensing agencies shall be notified immediately.

ii. Only persons identified to the licensing agency, placing agency, and development agency shall act as an alternate or alternates.

2. An alternate shall be available in case of emergency.

3. The licensee shall not delegate skill training responsibilities to the alternate or alternates.

4. The alternate or alternates shall read, write, speak, and understand English sufficiently to assume the licensee's responsibilities.

5. The alternate shall be of sound physical, mental, and emotional health.

6. Only alternates who have successfully completed training arranged by the Division or development agency shall administer medications to an individual or individuals.

(b) The Department may allow alternates with a criminal record to provide care to individuals in a community care residence, only in accordance with the terms of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

(c) No person shall serve as an alternate who has been adjudged civilly or criminally liable for abuse, neglect, or exploitation of another person, or whose name appears on the Central Registry.

(d) At a minimum, the licensee shall assure that all alternates are familiar with the licensee's residence, the individual, their needs and capabilities, the requirement that all information regarding individuals is kept confidential, emergency procedures (including, but not limited to, fire evacuation procedures), and the requirement to call 911 in the event of a life-threatening emergency in accordance with Danielle's Law.

(e) The regular use of an alternate for more than six consecutive hours is prohibited unless the following conditions are met:

1. The alternate has completed an approved training in accordance with N.J.A.C. 10:44B-1.4(k);

2. The alternate provides an annual medical form, which shall meet the requirements of N.J.A.C. 10:44B-2.1(a)3i;

3. The alternate is an occupant of the licensee's residence; and

4. The alternate is only used during the normal bedtime hours of the individuals placed into the home.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Stylistic revisions throughout.

Revised (f)9i. regarding monthly reports.

In (f)11: Added language regarding Mantoux Test.

Added (f)15 on Respite Care.

Repeal and New Rule, R.2013 d.062, effective April 15, 2013.

See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

Section was "Records".

10:44B-2.4 Reporting requirements

(a) Any alleged or suspected mistreatment of individuals or boarders shall be reported by the licensee immediately upon discovery to the Division and any other responsible placing agency representatives.

1. After normal business hours, the regional office of the Division shall be contacted at the appropriate hotline number.

2. In the case of minors, allegations of abuse or neglect shall be reported to the Department of Children and Families at 1-877-NJABUSE, as well as to the Division.

3. Suspected abuse or neglect of a person 18 years of age or older who resides in the residence shall be reported to Adult Protective Services at the hotline number and to the Division or placing agency.

(b) The licensee shall immediately notify the responsible placing agency in the event of:

1. The death or emergency removal of an individual or boarder;

2. The admission of the individual or boarder to a hospital, crisis center, or treatment in an emergency room;

3. An individual or boarder being unaccounted for or missing beyond their approved unsupervised time (as reflected in the service plan) for more than one hour;

4. Injuries to an individual or boarder involving sutures, fractures, lost teeth, etc., or other serious injury requiring medical attention;

5. The grossly negative impact of any individual's visits to or with family or friends; and

6. A lapse in the individual's participation or attendance in their day activity that exceeds a duration of five consecutive days, with the exception of a planned vacation and or a documented medical reason.

(c) The licensee shall immediately notify the placing agency and licensing agency in the event of:

1. Any change in the licensee's health status, which could negatively affect the licensee's ability to care for the individual;

2. Any police activity in the home or arrest of any occupant of the household; and

3. Significant damage to the residence, such as flooding or fire, mandatory emergency evacuation, or operational breakdown, such as disruption of any vital utility, for example, heat, water, electricity, telephone, etc.

(d) The licensee shall notify the placing agency, development agency, and the licensing agency no later than the next business day in the event of any change in:

1. The occupants in the residence;

2. The licensee's home telephone number; or

3. The licensee's work or volunteer hours.

(e) The licensee shall notify the placing agency, development agency, and licensing agency no less than 60 days prior

to any intent to move, including the new address, telephone number, and date of move, or of any intent to voluntarily cease to operate the home as a community care residence.

New Rule, R.2013 d.062, effective April 15, 2013.
See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

SUBCHAPTER 2A. RECORDS

10:44B-2A.1 Licensee records

(a) The licensee shall keep on file at the residence, in a location separate from the individual's records, the following administrative records:

1. The current contract/placement agreement from each placing agency, which shall include the name of the licensee(s), the terms of the agreement, and the rate of payment;

2. A record of all admissions, including names and dates of arrival and departure, for the previous 12-month period;

3. A current copy of this chapter;

4. A record of monthly fire evacuation drills and smoke detector and carbon monoxide detector checks, as specified at N.J.A.C. 10:44B-6.3(d);

5. The current license;

6. A copy of the licensee's annual medical form, in accordance with N.J.A.C. 10:44B-2.1(a)3i;

7. A copy of the alternate's annual medical form, in accordance with N.J.A.C. 10:44B-2.3(e)2;

8. A record of all trainings successfully completed by the licensee; and

9. For all respite placements within the past year, each individual's Adaptive Behavior Summary or HSRS, and Medication Administration Records.

10:44B-2A.2 Individual records

(a) Each individual's records shall be maintained in the licensee's residence in a separate, organized binder clearly marked with his or her name. The licensee may not store any other information other than that of the individual in this binder.

1. Maintenance of the individual's records in any place other than the licensee's residence, either permanently or temporarily, is prohibited.

2. Errors in documentation shall be amended by the use of a single strike through; no text-obliterating means, such as white out, shall be permitted.

(b) Individual's records are the property of the placing agency, and shall be relinquished to the placing agency's representative upon the individual's departure or transfer from the licensee's residence, or as otherwise necessary to safeguard the records.

(c) The licensee and alternate shall protect and maintain the confidentiality of all individual records in accordance with N.J.A.C. 10:41.

1. Individual's records shall be stored in such a manner as to maintain confidentiality and to provide access only to the individual, the individual's legal guardian, the licensee, the alternate, the placing agency, the agency providing case management services, the licensing agency, or other persons authorized by law or a court of competent jurisdiction.

2. The licensee shall not discard any records. If necessary, the licensee shall request assistance from the placing agency in removing records not pertinent to the individual's current care and habilitation.

3. The licensee shall not make copies or allow copies to be made of individual's records without written permission of the agency providing case management services and the individual's legal guardian indicating specifically which records are to be duplicated and for whom.

(d) The record for each individual residing in the home (except respite placements) shall include:

1. The full name and date of birth of the individual;
2. The date of placement into the residence;
3. The names and addresses of all personal physicians and dentists;
4. The name, address, and telephone numbers of the individual's legal guardian, family members, and other interested person(s);
5. Monthly reports completed by the licensee, which shall include the individual's social and behavioral status, medication changes, medical events, activities attended, community exposure, and progress or lack of progress on objectives that is behaviorally measurable and which corresponds to the objectives identified in the current service plan;
6. A seizure record, if applicable, of all seizure activity, including date, time, duration, surrounding circumstances, and treatment given;
7. A copy of the current service plan with the signatures of all members who participated in its development;
8. Annual physical examination and the date and results of the annual Mantoux Skin Test for tuberculosis or annual statement from the physician or nurse practitioner indicating the individual is free from tuberculosis;

9. A medication record, as required by N.J.A.C. 10:44B-5.2(a)li through vii, if the individual receives any medication prescribed by a physician and if the individual is not self-medicating.

i. An Over-the-Counter Medication sheet current within a year and completed and signed by the individual's physician or nurse practitioner.

ii. Copies of prescriptions for all medications administered to the individual, current within one year;

10. Documentation of an annual oral or dental examination;

11. Documentation of any medical treatment as required by the physician, nurse practitioner, or dentist;

12. Authorization for emergency medical treatment signed by the legally appointed guardian of an individual or the parent of a minor, as applicable, current within two years;

13. Medical insurance information;

14. For children, an immunization record;

15. All records related to the individual's personal funds and assets, in accordance with N.J.A.C. 10:44B-3.2; and

16. An inventory of personal property, maintained continuously throughout the placement.

(e) The record for each individual residing in the home as a respite placement shall include:

1. A placing agency's placement agreement, which indicates each individual's name, placement, and departure dates from the home;
2. The current assessment document utilized for service planning by the placing agency; and
3. The Medication Administration Records for the duration of the respite.

SUBCHAPTER 3. CARE OF THE INDIVIDUAL

10:44B-3.1 Individual rights

(a) Individuals' civil, human, and legal rights shall not be abridged solely on the basis of their diagnosis or without due process.

1. The exercise of individuals' rights shall not be prohibited or be used as a cause for retribution against the individual.

(b) Licensees shall assure that individuals are permitted to exercise all those rights outlined in the pamphlet "Personal Rights," distributed by the Division. Individuals shall have the right to:

1. Privacy and respect;
 2. Keep and use their own clothes, money, and personal things, and to have a place to put them so that no one else may use them;
 3. Associate with members of the opposite sex;
 4. Practice the religion of their choice or choose not to practice any religion;
 5. Send and receive mail without it being opened or read by other people and to receive assistance, should they want it, in reading or written correspondence;
 6. Make or receive private phone calls during set times;
 7. Have a healthy diet;
 8. Have visitors of their choice during reasonable set times;
 9. Request release from a program or transfer to another program;
 10. Register and vote in all elections;
 11. Share in developing their service plan designed specifically for them and to help decide what kinds of programs would be best for them in that plan;
 12. Have their service plan and all records kept private, unless they or their legal guardian give permission for someone else to see them;
 13. Regular educational instruction if they are between the ages of three and 21 years old and to participate in learning and recreational activities at any age;
 14. Receive guardianship services, if they are an adult who needs them;
 15. Be informed of the condition of their health and to be able to contact their doctor;
 16. Be free from unnecessary medical tests or treatment;
 17. Be free from unnecessary restraints or from being isolated; and
 18. Be free from physical punishment.
- (c) The licensee may establish reasonable house rules, which shall not infringe on the rights of the individuals.
1. These house rules shall include provisions to assure that individuals exercise their rights in such a way as to not infringe upon the rights of or endanger others.
 2. The licensee shall avoid any unreasonable schedule concerning the hours at which individuals shall rise or retire.
 3. Individuals shall be permitted to rest in their homes for such periods as may be consistent with their personal needs or preferences.
 4. Complete privacy shall be afforded to individuals during visits with their guests.
 - i. Visiting is to be permitted during reasonable hours.
- (d) There shall be no restrictions on the individual's movement or access to any area inside or outside of the home that is commonly used by the licensee and the occupants of the home, other than those areas that are not routinely used by all the members of the household, such as the licensee or family member's personal bedrooms.
- (e) Individuals shall have the right to access the community for recreation, education, shopping, employment, and to participate in social, religious, advocacy, or other groups of their choice.
1. The licensee shall provide or make arrangements to facilitate the individual's participation in all such community involvement.
 2. Licensees shall not impose their religious beliefs on individuals under their care.
 3. Licensees shall make arrangements for the individual to celebrate holidays, birthdays, and/or special events of the individual's choice.
 4. When the individual's religious beliefs forbid him or her to eat certain food or foods, the licensee shall provide each individual with adequate substitutes for these foods at no additional expense to the individual.
 5. Individuals may be unsupervised when there is documented approval of such by the IDT in the service plan, and which details the specific amounts of time and the locations for the unsupervised time.
- (f) There shall be no restrictions on the individual's use of any household appliance or device in any area inside or outside of the home commonly used by the licensee and the occupants of the home, except as necessary for the safety of the individual as determined by the IDT and recorded in the service plan.
- (g) Individuals shall have access to a telephone for incoming and outgoing calls, and shall be afforded privacy during these conversations. Assistance shall be provided by the licensee if requested by the individual.
- (h) Individuals shall manage their own money consistent with their ability as determined by the IDT and as documented in the service plan.
- (i) Individuals shall have full access to their personal clothing and possessions unless a restriction for behavioral or safety reasons has been approved by the IDT and documented in the service plan.
- (j) Individuals shall have full, unrestricted access to food in the home unless otherwise directed in writing by a

physician or determined by the IDT and documented in the service plan.

(k) Individuals shall be treated in an age appropriate manner with regard to communication, dress, activities, personal possessions, or any other aspect of daily living, taking into consideration the individual's personal preferences.

Amended by R.1990 d.359, effective July 16, 1990.
See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

In (b): added phrase regarding infringement of rights.
Stylistic changes throughout.

Amended by R.2013 d.062, effective April 15, 2013.
See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

Section was "Individual right and responsibilities". In the introductory paragraph of (a), substituted "or" for " , nor"; deleted former (b) through (l); recodified former (m) as (b); rewrote (b); and added new (c) through (k).

Case Notes

Developmental Disabilities Licensing failed to carry its burden of persuasion of proof by a preponderance of the competent and credible evidence regarding the allegation that a Community Care Residence licensee violated a resident's individual rights where the evidence showed that the resident had a habit of collecting and hoarding large amounts of paper, the resident would not voluntarily discard any of the paper, his collection created storage problems, and the licensee required the resident to empty the papers from the pillowcase where he stored them, then tear up and discard the older collection in order to retain papers he had more recently accumulated; punishment of the licensee was inappropriate merely because she sought to prevent her home from taking on the appearance of a trash recycling station. Div. of Developmental Disabilities v. Hagans, OAL Dkt. No. HDD 2675-05, 2007 N.J. AGEN LEXIS 184, Initial Decision (April 10, 2007).

Revocation of Community Care Residence (CCR) license was proper as licensee's deprivation of access to the refrigerator by his developmentally disabled residents, ostensibly in an effort to modify one resident's weight problem and his behavior of raiding the refrigerator, was a deprivation of their rights as well as abuse, notwithstanding that there was no rule specifically prohibiting a lock on a refrigerator; the residents were entitled to broadly exercise their individual rights, which were not to be curtailed based on their diagnoses, nor without due process, and no house rule could infringe on those rights since the residents were specifically entitled to free access to all living areas of the home, including the kitchen and the shared refrigerator. Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950, Final Decision (September 13, 2006).

10:44B-3.2 Personal funds

(a) The individual's personal funds shall be used solely for the individual.

(b) The licensee shall not commingle any individual's personal funds with those of the licensee or any other person or entity.

(c) There shall be no loans of finances, resources, or property from an individual to the licensee, licensee's family member, or any other individual or person.

(d) Unless otherwise determined by the IDT, an individual's personal funds in excess of \$100.00 shall be maintained in a separate bank account in the individual's name, accessible only by the individual and the licensee.

(e) When the individual has been determined by the IDT to be able to manage a specific amount of personal funds, and the amount is documented in the service plan, the licensee shall disburse such amounts to the individual accordingly. The licensee shall obtain the individual's signature for such personal funds disbursed to the individual.

(f) For all personal funds that the individual is not capable of managing on his or her own, the licensee shall maintain an accurate record of all transactions of the individual's personal funds on the placing agency's approved form. The record shall include:

1. All personal funds transactions, whether received, expended, or disbursed, including, but not limited to: wages; personal needs allowance (PNA); personal trust funds (PTF); private trust funds; monetary gifts; reimbursements and tax rebates, Maximus payments, payments of bills, and purchases; and personal funds disbursed to the individual;

2. The full date, amount, and a specific description of each transaction; and

3. Receipts related to all disbursements and expenditures. Receipts shall be either computer or register generated, or if not so provided by the vendor, legibly handwritten, containing the name, signature, location, and/or telephone number of the vendor or selling party.

(g) The licensee shall maintain all other documents related to the individual's finances, including, but not limited to, bank statements, bank passbooks, paycheck stubs, and income tax returns.

(h) The licensee shall not charge the individual for services or supplies that the licensee is obligated to provide by the licensing standards or by the provider agreement between the development and/or placing agency and the licensee.

1. The licensee shall not charge the individual for telephone usage other than long distance telephone calls or a separate private telephone number that is provided strictly for the individual's use.

2. The licensee shall not charge the individual for heating or cooling the residence or any portion thereof, electricity, hot and cold water, sewage, or gas for the car.

3. Charges to the individual for cable, satellite television, or cell phones shall be approved by the IDT, and included in the service plan, to be reviewed annually.

4. Grooming supplies, such as soap or other personal cleansing products, shampoo and conditioner, shaving cream, toothpaste, washcloths, towels, facial tissues, and toilet tissue shall be available to the individual at the licensee's expense.

5. Individual toothbrushes, razors, hair combs, brushes, styling products, accessories, cosmetics and fragrances,

deodorant, lotion, and feminine products shall be available to the individual at his or her own expense.

6. Snacks and drinks shall be available to the individual at the licensee's expense.

7. The licensee shall be responsible for the cost of meals purchased in the community when the individual dines with the licensee and/or the licensee's family. Exceptions shall be approved by the IDT, documented in the service plan and reviewed annually.

8. The licensee shall provide laundry services and supplies, including the use of the laundromat or wash and fold services, without additional charge to the individual.

9. Dry cleaning services may be provided and paid for at the individual's expense when approved by the IDT and documented in the service plan.

New Rule, R.2013 d.062, effective April 15, 2013.
See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

Former N.J.A.C. 10:44B-3.2, Personal health, hygiene, and grooming, recodified to N.J.A.C. 10:44B-3.3.

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 34) accepted, which concluded that revocation of license to operate a Community Care Residence on grounds of failure to properly account for client funds and maintain financial records, resulting in more than \$5,000 of three clients' personal funds being unaccounted for, was warranted; substantial evidence showed that the licensee did not keep accurate records of purchases made with client funds, did not itemize expenses, and permitted substantial gaps in the documentation relative to receipts for alleged client expenditures, and that the licensee essentially exploited three clients by using their funds to her own advantage and profited by improperly charging those clients for supposed "household gifts" for the licensee and her family, or for items for which the licensee had already been compensated by the Division of Developmental Disabilities (decided under former N.J.A.C. 10:44B-2.3). *Thomas v. Div. of Developmental Disabilities*, OAL Dkt. No. HDD 4537-04 and HDD 8641-04 (Consolidated), 2007 N.J. AGEN LEXIS 105, Final Decision (February 28, 2007).

10:44B-3.3 Personal health, hygiene, and grooming

(a) Individuals shall be encouraged to exercise maximum independence in health, hygiene, and grooming practices.

(b) Within the residence, the licensee shall ensure that each individual has the opportunity for personal care, with assistance if necessary, to include:

1. A daily bath or shower;
2. Oral hygiene twice daily;
3. Opportunity to shave, as necessary;
4. Care of fingernails and toenails;
5. Cutting, styling, or grooming of hair, as necessary; and
6. Toileting.

(c) Hygiene and grooming articles shall be maintained separately from all medications, food, household cleaning

supplies and chemicals and stored in a safe and sanitary manner either in the bathroom or in the individual's bedroom.

(d) Female individuals shall be assisted by the licensee as necessary in caring for personal feminine needs.

Amended by R.1990 d.359, effective July 16, 1990.
See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Stylistic revision.
Recodified from N.J.A.C. 10:44B-3.2 and amended by R.2013 d.062, effective April 15, 2013.
See: 44 N.J.R. 2327(a), 45 N.J.R. 896(b).

Rewrote the introductory paragraph of (b), (b)3, (b)4, (b)5 and (c); added (b)6; deleted former (d); recodified (e) as (d); and rewrote (d). Former N.J.A.C. 10:44B-3.3, Food, recodified to N.J.A.C. 10:44B-3.4.

10:44B-3.4 Food

(a) The licensee shall ensure that an individual is provided with three nutritionally balanced meals, varied in nature, and a sufficient amount of liquids for hydration, daily, either in the residence or in the community.

(b) There shall not be more than a 14-hour span between the evening meal and breakfast.

(c) Food, snacks, and liquids shall be readily accessible to individuals as desired, unless limitations have been deemed necessary by the individual's physician.

(d) Food shall be fresh, stored in a manner to keep it clean and safe for consumption. Food shall be discarded upon spoilage or upon the expiration date of the package.

(e) Individuals shall dine with the licensee's family on a regular basis, unless the individual expresses a desire to dine elsewhere, as approved by the IDT and the individual's guardian, and recorded in the service plan.

1. There shall be sufficient seating and room at the dining table to accommodate all occupants of the household so that they may dine together.

2. There shall be sufficient supply of eating utensils, plates, cups, etc., for all occupants of the household.

(f) If a medically prescribed diet is required, the menu planning and food preparation shall be consistent with the individual's medical and dietary needs.

1. The licensee shall demonstrate knowledge of the individual's medically prescribed diets.

(g) The licensee shall make a reasonable attempt to comply with food preferences and snacks requested by the individual, without charge to the individual.

(h) The licensee shall not withhold food, drinks, or snacks as a form of punishment.

Amended by R.1990 d.359, effective July 16, 1990.
See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Stylistic revisions throughout.
Revised subsection (f) regarding family dining.
Added new subsection (h).